

AFGHAN CIVILIAN POLICE: POLICE INSTEAD OF SOLDIERS

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AFGHAN CIVILIAN POLICE: POLICE INSTEAD OF SOLDIERS

The Afghan police have been a key part of the international community's plan to rebuild Afghanistan society since the ouster of the Taliban in 2001 by coalition forces. Increasing the size of the Afghan police emerged as a key part of the new counterinsurgency (COIN) strategy approved by US President Obama in December 2009.¹ Unfortunately, the efficiency and effectiveness of the Afghan Civilian Police (ACP) has not kept pace with the Afghan National Army (ANA). All the approaches over the past eight years failed to achieve an end state in which the police force responds to central control from Kabul in order to create an Afghan nation-state and reduce the power of the warlords in the provinces.² A new intermediate end state for the ACP is required. The new intermediate end state should consider the socio-cultural dynamics in solving what poses a "wicked problem".³ This paper argues that the Afghan Civilian Police (ACP) should be trained and focused on law enforcement duties in the application of tribal and secular law at the regional level to build legitimacy for the Afghanistan government instead of performing paramilitary duties in support of counterinsurgency operations.

Socio-cultural dynamics determine the training and employment of the ACP in Afghanistan. A simple solution does not exist and any actions taken will be the "least bad" option available to the international community and the Afghan people. Before agreeing to the option on the ACP stated above, decision makers must understand the context in the form of local traditions, religion, society and ethnic groups past and current interactions with the central government and the history of police forces. This

paper presents a summary of how the ACP could better fit into the mosaic of Afghanistan and several pros and cons of the proposed solution.

The Complexity of Afghanistan for Police

Afghanistan is a diverse country with numerous tribes, ethnic groups, and religious sects spread over very challenging terrain. In addition, the operating environment for the ACP is complex as well. The complexity manifests itself in an insurgency, illegal drug trade, poor governance and corruption, organized crime, illegally armed groups, as well as normal crime.⁴ Three major sources of law reside in the country: tribal law, sharia, and secular law.⁵ Although there are many similarities between traditional tribal law, sharia, and secular law, enough differences exist to present formidable challenges to standard application and enforcement throughout Afghanistan. The balance between tribal law, sharia, and secular law depends on the region, population density, and ethnic background. The Uzbeks, Tajiks, Hazaras, Ismailis, Turkmen, Baluch, Brahui and Pashtun ethnic and religious groups each have their own traditions in Islamic law.⁶ The conflicts in Afghanistan do not predominantly result from the Sunni and Shia sectarian religious differences. Whereas the traditional law or tribal law may be effective in rural areas, the tribal system has less sway in the urban areas where secular law from the 1960s and 1970s along with recent rewrites are more accepted.

Afghanistan tribal cultures have significantly different views on central authority and concepts on the application of justice. There are two main forms of tribal management in Afghan tribes: top-down and bottom-up. The Uzbeks, Hazaras, Ismailis, Turkmen, Baluch and Brahui ethnic groups can be generally characterized as top down. The Pashtuns follow a bottom-up tribal management style. Even within the

Pashtun sub-tribes, there are very different leadership cultures, but almost all are very suspicious of outside authority.⁷ The top-down tribal areas in the north and east will be more amenable to a centrally directed national police force due to their cultural tendencies for strong top-down leadership. The Pashtun south, however, will be hostile to a national police force which conflicts with their tribal traditions and law. The Pashtun tribal areas have their own versions of police forces in keeping with traditions and culture.⁸ The Tajiks in Afghanistan do not organize themselves by tribe and normally refer to themselves by the valley or region they inhabit.⁹

The culture and history of Afghanistan dictates that the local population will look to their local governments for solutions to their issues before they turn to a central government for resolution. There has never been a strong functioning central government in Afghanistan. Although there have been several leaders and outside powers who have tried to rule the country from Kabul, the most stable periods have occurred during a loose federal system. The best example is the Musahiban dynasty that ruled Afghanistan from 1929 to 1978.¹⁰ For several centuries, the central government has had no positive impact on the people's lives and remains almost non-existent in their minds. Traditionally, several Pashtun tribes also have a history of exemption from central rule and service.¹¹

One of the main challenges facing the Afghan police forces is a lack of tradition and history in a strong central police force.¹² A national police force existed only briefly in the 1960s and 1970s. Designed along European lines, the police force members received training from both East and West Germany. The Soviet period resulted in a reorganization of the police and the creation of additional police forces that became

responsible for internal intelligence, arrest and interrogation of political prisoners, subversion of border tribes, assassinations and counterintelligence. While the Afghans did not have a functioning national police force, they did have functioning secret police forces.¹³ The secret police force's history increased distrust of police forces by the population.¹⁴ After the departure of the Soviets, there was essentially no national civilian police force in Afghanistan. Local militia and tribal forces reverted to traditional rule of law in much of the country.¹⁵ This remained the case through the Taliban rule from 1995 until the formation of the ANP in 2002.

The diversity of tribes, ethnic groups and cultural traditions make it extremely difficult to develop and implement a standard solution for the employment and control of police forces in Afghanistan. Each region and tribal area has its own distinct cultures and traditions that will require accommodation for the successful application of law enforcement by police. The different organizations within the Afghan National Police require different employment methods depending on the area to successfully support a counterinsurgency strategy as one of their many missions.

The Afghan Police and Counterinsurgency Doctrine

The ANP consists of Afghan Civilian Police (ACP), the Afghan National Civil Order Police (ANCOP), also known as the Afghan Gendarme, the Afghan Border Police (ABP), the Counter-Narcotics Police of Afghanistan (CNPA), and additional specialized police including criminal investigation, counter-terrorism, and customs.¹⁶ The ACP are the primary interface with the local population and the focus of discussion in this paper. The ACP enforce the law at regional, provincial and district levels. This enforcement involves standard police work such as patrols, traffic control and crime prevention. The current plan is for them to spread the rule of law throughout the country.¹⁷

Currently, the ACP is the face of the Afghan government for most of its citizens. How the population interacts with the ACP will determine how the average Afghan views the government. If the ACP is ineffective, corrupt and unavailable, then the Afghan citizens will perceive the government in the same way.¹⁸ The goal of the international community and the central government is to create a democratic society compatible with Afghan culture. Law enforcement is the primary role of police in a democratic society.¹⁹

Police play important roles in COIN doctrine and theory written in the 20th century. Trinquier and Galula both emphasize the role of police in the counterinsurgency fight. Both theorists started with a premise that a police force existed and had been overwhelmed by the insurgency. The implicit assumption carried through both Trinquier's and Galula's works was that the police existed and needed military help. Trinquier, especially, spent a great deal of text on how to reinforce the police in their law enforcement roles to combat the insurgency.²⁰ For all intents and purposes, Afghanistan did not have a police force to reinforce in 2002. Without a police force to conduct law enforcement missions and establish the legitimacy of the government, it is difficult for the government to win the population's loyalty. Without the rule of law, a government is not legitimate.

There seems to be a doctrinal tendency among western powers to believe that policemen are the front line in a counterinsurgency fight.²¹ Police are an important part of the COIN fight because they enforce the rule of law.²² However, when the insurgency escalates to the level of organized combat, it is no longer a law enforcement problem. Combat is the mission of soldiers. If organized insurgents are attacking policemen with

heavy infantry weapons, it is the job of the army to protect them.²³ No additional amount of training or equipment can turn ordinary police into soldiers without compromising their primary role as law enforcers. If the strength of the insurgency is so strong that law enforcement can not be accomplished, then the ACP should be removed from the area and replaced with the Afghan Gendarme or the Army.

Soldiers and policemen operate with different mindsets, engagement and employment techniques. Although there are some similarities in organization, the strength of the police comes from their knowledge of the local population. Affinity with the local population through knowledge of the language and culture is a prerequisite for fulfilling the law enforcement mission and gathering intelligence. Unlike the soldier who could be deployed anywhere to do his mission, the average policeman loses some of his effectiveness when removed from his station or locality. The diversification of Afghanistan magnifies the loss of effectiveness for the policeman when moved to another tribal area and organization.

Effective police interact with the population in small teams and interact with the people in a non-threatening manner. The one-to-one interaction with civilians allows the policeman to collect intelligence, maintain situational awareness of his environment and build trust in his operational area. A large heavily armed unit faces much greater difficulties in building these bonds with the locals. As a result, a heavily militarized civilian police is not in the best interests of the government.²⁴ A level of trust and knowledge of an area can take months and years to build. Although the tactics and experience can be transferred to another region, the results useful for a successful COIN strategy will still take a long time. Afghanistan has the Afghan Gendarme which

can reinforce the ACP to a certain level when the ACP is out-numbered or out-gunned.²⁵

The Afghan Gendarme is a nationally controlled paramilitary police force that can work with the ACP to stabilize area situations before they require Army support. Employing the Afghan Gendarme to maintain the rule of law before martial law may be required is an important step in a successful COIN operation.

Since COIN doctrine recognizes that successful counter-insurgencies take time, short term fixes must be balanced against long term goals. This is especially true in the use of bad and ill-trained police. As a counterpoint, it might be argued that some police are better than nothing at all. It could be reasoned that getting some police on the ground to establish law and order and extend the reach of the government to show progress and start to win the loyalty for the government will help stem the tide of the insurgency. This will seem to be a successful course of action up until heavily armed police, poorly trained in law enforcement missions, start dying at the hands of the insurgents and cannot provide either basic security or law enforcement to the population. Once incompetence in basic law enforcement tasks reveals itself and the inevitable corruption occurs, the competence of the government will be questioned. Unfortunately, police who are corrupt and prey on the population²⁶, are not trained on law enforcement tasks, and are ineffective are more counter productive for government legitimacy than no police at all. Since the police are the face of the government, the patience of the population in accepting failures will be tested and the government's standing will be lowered.

A short term fix in providing ill-trained policemen for law enforcement duties will make the insurgents' job even easier. The results of the short term fix will allow the insurgents to say "I told you so" and install their shadow government.

Training an effective policeman takes longer than training a new soldier. Although the current training for an Afghan Soldier is longer at fourteen weeks than that for a policeman at eight weeks, six weeks difference should not be the criteria to rush more police into a job they are not trained to do. If soldiers are needed, train soldiers and deploy units to combat the insurgency. After the insurgency is contained, soldiers and units can be demobilized or moved. Police will need to remain. It is imperative that police be trained to high standards to maintain the legitimacy of the government. Training policemen in paramilitary duties to allow soldiers to do other tasks is a mission doomed to failure in the long run.

Training and Reform of the ACP

The lack of literacy amongst Afghan police recruits is the single biggest impediment to a western style law enforcement organization and requires concerted training and education. Rural Afghan males have a literacy rate of under 40%.²⁷ Illiteracy is a bigger impediment to successful police reform than corruption, warlordism, targeting by terrorists or being co-opted by local authorities. The challenges illiteracy poses for modern law are formidable. The modern rule of law requires written documents. Modern forensic techniques and judicial proceedings rely on written reports for adjudication as a case moves through the system. The inability to read and write creates the opportunity for lapses in memory and lost evidence which can easily be perceived by the aggrieved party as evidence of corruption and favoritism. This is

especially true of secular law that is not fully understood and unfamiliar in the rural areas and may actually be in conflict with long established traditions.

The conflicts between secular law and tribal traditions are not the only problems the ACP must overcome. The international community also has different ideas on how the police and the security sector should be trained, controlled and employed. The Europeans and Americans have philosophical and organizational differences in the training and formation of the Afghan National Police force. The Bonn Agreements in 2002 divided Afghanistan's security sector reform (SSR) into five components with one nation in charge of each. The United States took responsibility for the Afghan National Army (ANA). Disarmament went to the Japanese while the United Kingdom tackled the counter-narcotics problem. Italy attempted judicial reform while Germany assumed the mission of reforming the Afghan National Police. Although politically palatable to divide the mission between the international community partners, this approach was doomed from the start. SSR is a system that must be reformed as a whole. Delays or failures in one-sector or component cause serious ramifications in another sector. The lack of coordination and differing philosophies between lead nations caused problems still evident today.²⁸ The location of the original international forces in Kabul and the small footprint methodology adopted by the United Nations further narrowed the scope of the reform efforts.²⁹

Germany accepted responsibility for training the police force. In their tradition of a highly trained national police force, the Germans created a central police academy that focused on civilian law and produced very professional officers. The German intent was laudable but the three-year course for officers and one-year course for non-

commissioned officers only produced 870 officers and 2,600 NCOs in the first three years. The numbers produced came nowhere near meeting the requirements. This approach neglected the security environment and allowed the interim local commanders and militia leaders to place their own untrained and corrupt cronies into positions of authority and become the de facto face of the national government.³⁰ The gaps in capacity and capabilities were magnified by the differences in employment and control of police between the US and Europe law enforcement traditions.

Fundamental differences separate the European and American views of policing. The Europeans have a strong tradition of a high quality national police force. The United States prefers the community-policing model.³¹ The difference between community policing and the national system are legal and political. The European policing system serves the state first while community-policing system serves local communities first. Although there seems to be an overriding desire to extend the reach and control of the central government through a national police force, the tension between the two systems may be creating future problems for the Afghan National Police.³²

As the security situation worsened and due to U.S. dissatisfaction with the scope and speed of the German efforts, the U.S. assumed responsibility for the Ministry of Interior (MOI) and police force training in 2006.³³ The organization responsible for police training is the Combined Security Transition Command-Afghanistan (CSTC-A). By July 2007, under U.S. direction, 71,147 rank and file police had received training. The course at the regional centers includes eight-week basic training for literate recruits. The training regime omits many obvious policing functions such as in-depth study of the law, note-taking and witness statements. The training attrition rate was estimated in

2006 to be 15 to 30 per cent and as of 2009, there are still problems with police completing their training and being diverted to counterinsurgency missions.³⁴ Moreover, in 2007 the head of the Combined Security Transition Command-Afghanistan (CSTC-A) efforts said only 40 per cent of the police have proper equipment.³⁵ Challenges still remain in getting the proper equipment to units due to the security situation.³⁶

Even after the U.S. assumed the responsibility for reforming the ANP, the training and equipping of the Afghan Civilian Police has been uncoordinated within the international community, within the USG, and unfocused on the skills needed for law enforcement. The international community's competing and conflicting visions of reform thwarted progress and demonstrated the lack of international organizations equipped and trained to oversee police training. Numbers through academies and dollars spent on equipment are often easier to measure than real progress in policing.³⁷ Unfortunately buying equipment and placing it into the hands of ill-trained and possibly corrupt individuals does not cause real reform or improve the efficiency of the police or their standing in the public's eye.³⁸ As mentioned earlier, if the police do not receive the training for law enforcement, they cannot perform their vital role in a counterinsurgency. Training them as a paramilitary force moves them farther away from law enforcement expertise and roles and actually makes them even less useful in a COIN role. The U.S. decision to give the leading role in its police programs to the Department of Defense did not help this conundrum and further blurred the distinction between the military and police.

Realizing that the Security Sector Reform (SSR) is a system, CSTC-A's current efforts, with the support of the State Department's Bureau for International Narcotics

and Law Enforcement Affairs (INL), focus on a greater unity of effort within the international community toward reforming the entire rule of law system, to include the police.³⁹ The International Security Assistance Force (ISAF) and CSTC-A are working to set the conditions for improvement. Pay reform, grade reform, elimination of private militias and use of police mentor teams with the ACP are the more important initiatives that are starting to show results.⁴⁰ The reform efforts have lessened the corruption and bloated bureaucracy of the MOI, but have had little effect on improving the effectiveness of ACP at the local level.⁴¹

The thesis to focus on law enforcement of tribal and secular law over paramilitary duties for police under the control of regional governments is not without controversy. This paper will now briefly examine the arguments for and counterpoints against the thesis by examining the three main parts: law enforcement over paramilitary, tribal law and secular law over solely secular law and local control over central control.

The Primacy of Law Enforcement over Paramilitary Duties

The police's primary role is to prevent crime. The population expects their policemen to provide a safe and secure environment to safeguard their families and property from crime. The crime referred to here does not encompass organized crime such as drug trafficking by cartels or attempting to label all insurgents criminals and grouping everything they do as crime. The crimes that the ACP deal with are the routine acts such as thefts, personal assaults and disputes, and traffic law enforcement.⁴² Since the police are the most visible, omnipresent and powerful face of the government to the normal civilian, any feelings the population has about the police transfers to the government and its legitimacy. The individual thievery, bodily assaults, traffic violations and corruption affect the sense of security of most of the population.

Therefore, the prevention of crime as it affects the individual remains the primary focus of law enforcement policing.⁴³

The inability of the police forces to control crime reduces the legitimacy of the government. Efficient and honest policing goes to the very essence of creating a nation-state. National institutions must provide security and justice for a government to be regarded as legitimate. Currently, the Afghans regard the police as a source of fear instead of security.⁴⁴ The police are a successful part of a COIN program only if they are effective policemen. Making them auxiliary soldiers, paramilitary forces or economy of force units at the expense of law enforcement expertise does more harm than good.⁴⁵ If police are being attacked by organized insurgents, the correct response is not to give them military training and military equipment. The correct response is to provide them protection through army units trained to handle combat so the police can do their law enforcement mission. Without the protection, the police are at the mercy of the anti-government forces and will continue to suffer casualties and desert.⁴⁶

Policemen cannot function as substitute soldiers and perform paramilitary duties as well as their law enforcement duties. The police are being forced to combat the insurgency as an inadequately trained and equipped security force.⁴⁷ In 2008, over 1300 police died, which is three times the number of Afghan soldiers during the same period. As of November, the tally for police was over 1000 killed and 1600 wounded in 2009.⁴⁸ The Taliban understand how important the police are for the legitimacy of the government and singles them out for attack.⁴⁹ Although the pay scale for police is now the same as soldiers, the lack of back up during combat operations, lack of respect or

prestige from the population and high death rate contributes to an attrition rate of 20% per year.⁵⁰

There is also the counterpoint idea that law enforcement, regardless of law enforcement training and laws, is infeasible in the current security climate and the ACP needs to focus on paramilitary roles to defeat the insurgency and create a security climate where law enforcement is feasible in the future. The reasoning follows that the ACP are dying due to insurgent attacks and it is necessary to train them in paramilitary roles or they will not survive to do law enforcement. Even among some international police, there is the assessment that Afghanistan's security environment is unready for civilian policing; therefore, the police must remain an auxiliary military force while the current security situation continues.⁵¹ The problem with this line of thinking is that it assumes that the security situation can only be improved by military means. It assumes that once the insurgents are removed, then law enforcement can start or resume.

Continuing this line of thinking is dangerous because it neglects to consider that the lack of law enforcement is actually allowing the security situation to deteriorate. The lack of law enforcement is not just in the crimes that the insurgents commit, but also in lack of legitimacy that the locals feel towards the government because they feel unprotected from common crimes and criminals.⁵² This insecurity leaves an opening that the insurgents, and especially the Taliban, have been able to successfully exploit through their use of night letters and a shadow government.⁵³ Unfortunately, policemen trained in paramilitary duties are not going to be the best personnel to conduct law enforcement among the population. As noted earlier, the mindset for law enforcement and combat is entirely different and not easily switched.

One of the hardest objections to overcome for training and using police in a law enforcement role is the education level of the Afghan population. There is the view that the Afghan police force recruits are too illiterate to train in law enforcement duties and are better suited for a paramilitary role. It is much easier and quicker to train a recruit to be a soldier who is part of a unit subject to supervision than it is to train a recruit to be a policeman to operate with little to no supervision and daily interaction with the local population in complex situations that require on the spot judgments. The inability to read the law, apply forensics techniques, read and understand standard operating procedures, or fill out reports severely curtails the Afghan's ability to practice modern police work.⁵⁴ The ability to perform modern police work will develop over a generation as the education system produces personnel able to function in a modern bureaucracy. Until then, police trained in the basic concepts of civil rights, evidence collection and service to the population under the guidance of the traditional tribal structure will need to suffice.

Tribal Law and Secular Law over Solely Secular Law

The employment of police in law enforcement roles needs to reinforce existing tribal culture and mechanisms for justice that will ensure a greater chance of success for the police and the people. The mechanisms for justice in many areas are long standing. For generations, tribal elders and village councils have been dispensing justice and enforcing societal norms according to traditional or tribal law. There is some concern that thirty years of war may have subverted customary traditional law, but centuries of tradition are difficult to erase. In the near term and probably for much longer, the national set of laws should allow the traditional tribal systems in place to take priority in those areas where tribal law could be effective.⁵⁵ A set of laws that has

acceptance among the people will do more to provide for security than a universal set of written laws that are very unfamiliar and cannot be read. The police will have greater success in enforcing a set of laws that everyone is familiar with instead of decrees issued by a central government. A return to traditional laws will do more to calm the countryside than a top-down enforcement of secular law at this point in Afghanistan's history. A melding of secular law dealing with capital crimes and serious offenses with tribal law could then take place over a generation once stability or a rough equilibrium between national and local governments has returned.⁵⁶

There are several good reasons to enforce tribal law over a poorly understood secular law for the immediate future. Traditional law follows the general tenets of religious law and is accepted and understood within the different cultures of Afghanistan. Traditional courts and processes already exist in many rural areas and they can be leveraged. Where tribal ties and religious courts do not hold as great an influence, secular law based on the Afghan constitution can be enforced. These areas for secular law will predominantly be in the urban areas where tribal ties may not be as strong or in areas where disputes occur between entirely different tribes or ethnic groups. Secular law may be the only common denominator between the opposing plaintiffs in certain areas.

However, there is no accepted and understood secular law within Afghanistan that can be successfully and universally enforced. Several contradictions exist about the rights of suspects and how long they can be held. The police law states that suspects can be held for 72 hours, while the Interim Criminal (Procedure) Code for Courts (2004) only allows 24 hours. This is an example of the disconnect in SSR between the Italians

working with the judiciary and the Germans working with the police. This is only one of the many reasons that police are unfamiliar with applicable laws and adds difficulty to an illiterate police force more familiar with tribal tradition than western inspired human rights ideas. The criminal code however, is under revision and this effort will eventually help in the long term. Until then, most police are unfamiliar with the relevant secular laws.⁵⁷ The police should focus on enforcing the tribal or secular law accepted by the population in their area. Any attempts to enforce laws which do not have legitimacy in the population's minds provide an opening for insurgents and alternative systems.

Another counterargument says that Afghanistan will never be a modern country where human rights are respected for all if the current system of traditional justice is allowed to continue. Proponents of these ideas reason that the enforcement of tribal and religious law strengthens the tribal and religious structure at the expense of the central government and the creation of a viable Afghan nation-state. This is true. As long as the people continue to see their local leaders as the providers of security and prosperity rather than the central government in Kabul, they will not transfer their loyalty to a central government. An Afghan national identity may be in the future, but a regional tribal loyalty is better than an autocratic and theocratic regime controlled by Taliban extremist inspired ideas.

Local Control over Central Control

Local governments should have responsibility for law enforcement for the foreseeable future. There are too many barriers to a centrally controlled law enforcement system in the form of cultural traditions, past abuses, repressions and general mistrust. As stated earlier, the most stable periods in Afghan history occurred when the central government reached accommodation with regional leaders and the

Kabul government led a relatively weak, loose federation. It would be folly to try to supplant local power brokers with centrally selected individuals. The local power brokers have the power for a reason. Power comes from money, tradition, tribal affiliation and/or ability. Local governments can reinforce the tribal status quo through the enforcement of tribal law. Although there is some danger of the police forces being co-opted by local authorities or warlords, the solution to this issue is to ensure good governance by local authorities. It is not to position the police between local and national power conflicts. Local governments need to be responsible for the security of their populations. Police are an integral part of the solution. Control of the police should not be removed from local authority because there is the fear that the local authorities will misuse them. This is self-defeating course of action.

The arguments for a strong central government center around the need to create an Afghan nation. An effective and respected centrally controlled police force better enables support for a central government. A national police force can strengthen the central government and aid in the development of an Afghan nation-state. A national police force allows the central government to weaken the influence of the warlords and private militias. A centrally controlled national police force also can reduce corruption and increase quality across the entire force by ensuring standards. The rule of law is critical in the economic development of the country and can only be enforced by centrally controlled and competent police forces who are not under the influence of regional power brokers. Without a strong central government with the ability to tax and a monopoly on the use of violence, Afghanistan will not be able to develop economically. However, though a nationally controlled police may allow a strong central

government to exist, the traditions and histories of decentralized tendencies of the Afghan peoples are not going to be overcome within one generation. Therefore, tribal police forces are more viable for now.

A well reasoned argument can be made for wanting the power centers to shift to Kabul instead of remaining in the provinces. Strong regional governments weaken the central government and degrade the central government's ability to manage scarce assets and establish quality training for police. There will come a time when the international community's resources will decrease. Afghanistan is not a rich country and will need a means to pool scarce resources to train and maintain a military and a police force. If the power remains in the provinces, this loyalty will not transfer to Kabul and the central government. This will delay the formation of a modern state and the recognition by the Afghan population that they are Afghans before they are members of a tribe or ethnic group. Although the reasons articulated for strengthening the central government above appear logical and reasonable, they do not adequately factor in the socio-cultural dynamics, difficulties, cultural changes and time involved to become a reality. Attempting to use the ACP to force the changes is not a wise way to increase the government legitimacy.

Recommendations

Recommendation 1. Afghan Civilian Police (ACP) training should consist of law enforcement tasks and responsibilities with a strong emphasis on literacy education. The role of the police in a counterinsurgency is understood to be important. The police can only perform this role if they are truly police serving in a law enforcement role under the mantle of "to serve and protect" the Afghan population. In order to perform their law enforcement tasks as well as gather intelligence, the police should be given special

emphasis on literacy training to enable them to perform in a modern bureaucracy that requires written reports. If they are not seen by the public as trustworthy and competent, then the public will not provide them with the information and intelligence that allows them to know their areas of responsibilities and help thwart the insurgents. The recommendation is to stop training police to be paramilitary forces and stop using them to hold areas cleared of insurgents. Soldiers should hold areas cleared of insurgents and deal with any insurgent returnees.⁵⁸ The police gather intelligence while performing their primary law enforcement role and the soldiers react to combat.

Recommendation 2. Afghan Civilian Police should enforce the traditional or secular law appropriate for the area under the control of local authorities. The police should work for the local authorities enforcing the tribal or secular law appropriate for the area and provide an atmosphere of security for the population. The employment of the police in a law-enforcement role in Afghanistan depends on each region's composition of tribes, history, culture and traditions. The ACP should be recruited from the local area and reflect the cultural, ethnic and tribal environment. The different tribes that make up the country of Afghanistan share very few cultures and traditions that would allow a strong central government with a uniform system of laws and police force to exist at this period in time. Expecting the police to expedite the transition to a strong central government is misguided and antagonizes the locals and puts the goal of a strong central government further off in the future. Any attempt to establish a standard formula for the employment of police, the enforcement of laws and police organization in Afghanistan is foolhardy.

Recommendation 3. Afghan Civilian Police should be removed from those areas where the security situation does not allow law enforcement duties to be performed and replaced by the Afghan National Army or the Afghan Gendarme.

If the security situation does not allow routine law enforcement duties to be performed, then high-threat law enforcement operations by the Afghan Gendarme or combat operations by the Army are required. If sufficient Afghan Gendarme or Army units are not readily available, then the area may need to be surrendered to the insurgents until security forces are available and present. The temptation to use police in economy of force roles in insurgent controlled areas must be resisted. In order to hold the areas after the insurgents are removed, trained police performing law enforcement duties are needed to reestablish government legitimacy. If police are not trained in law enforcement duties or dead, the situation will quickly deteriorate again. A course of action where the police focus on law enforcement may mean a larger and more visible army for the near future to defeat the insurgents. The time during which the army provides security can be used to develop a professional police force that is developed from the bottom-up to include literacy. Until the police are trained in law enforcement roles and gain proficiency in their tasks as well as gain the trust of the population, their utility in the current COIN fight is limited and may be counterproductive. Another attempt to rebadge or retrain the police with even more short training courses, as either units or individuals, will guarantee the same results if the ACP are used in the same manner as present.

Conclusion

There is nothing more wasteful than trying to solve the wrong problem more efficiently. To manage a wicked problem like the role of the Afghan Civilian Police (ACP)

in the current counterinsurgency environment, the socio-cultural dynamics of history, society and tradition, and roles of police and soldiers must be integrated into a solution. The least bad option is for the Afghan Civilian Police to be trained and focused on law enforcement duties in the application of tribal and secular law at the regional level to build legitimacy for the Afghanistan government instead of performing paramilitary duties in support of counterinsurgency operations.

Endnotes

¹ Anand Gopal, "Afghan Police Deaths Highlight Holes in Alliance," *The Wall Street Journal*, December 15, 2009.

² Hamid Karzai, *National Security Policy*, (Kabul, Afghanistan: Office of the National Security Council, 2010), Chapter 3, 14; Patrick Donahue and Michael Fenzel, "Combating a Modern Insurgency: Combined Task Force Devil in Afghanistan," *Military Review*, June 2008.

³ Socio-Cultural Dynamics is defined as information about the social, cultural and behavioral factors characterizing the population of a specific region or operational environment. A "wicked problem" is an ill-structured problem that professionals will disagree on: how the problem can be solved, the most desirable end state, and whether it can be attained. U.S. Department of the Army, *Commander's Appreciation and Campaign Design*, TRADOC Pam 525-5-500 (Washington, DC: US Department of the Army, January 28, 2008), 9.

⁴ Mohammed Hadeef Atmar, *Afghan National Police Strategy* (Kabul, Afghanistan: Afghan Ministry of Interior, January 2010), 3.

⁵ Secular Law is defined as law derived from the Afghan Constitution. Traditional or tribal law predates the influence of Islam. For example, in the southern Pashtun regions, tribal or traditional law is known as Pashtunwali. Sharia law is derived from the precepts of Islam.

⁶ The Pashtun's traditional tribal law is "Pashtunwali" which governs a tribe's actions and is administered by tribal elders. Pashtunwali differs from Islamic Law "Sharia" enforced by mullahs. See Tribal Analysis Center, "Starfish, Spiders and Jellyfish: Pashtun Cultural Factors limiting Warlord Development," 2009. [http://www.tribalanalysiscenter.com/freePDF/Afghanistan%20A %20History%20of%20Utilization%20of%20Tribal%20Auxiliaries.pdf](http://www.tribalanalysiscenter.com/freePDF/Afghanistan%20A%20History%20of%20Utilization%20of%20Tribal%20Auxiliaries.pdf) (accessed November 10, 2009).

⁷ Ibid.

⁸ These are the Tsalweshtai "guard force" which is a platoon-sized force of forty men formed for special mission such as protection from bandits or brigands. The Tsalweshtai forms from various groupings within the tribe. The Tribal police force is known as Arbakai and enforces tribal jirga decrees. In addition, there are also larger groups such as Chagas and

Chalweshtai to implement tribal decisions. Lashkars are raised and used for large-scale problems and can be between 12 and 50,000 men. See Tribal Analysis Center, "Starfish, Spiders and Jellyfish: Pashtun Cultural Factors limiting Warlord Development," 2009. <http://www.tribalanalysiscenter.com/freePDF/Afghanistan%20A%20History%20of%20Utilization%20of%20Tribal%20Auxiliaries.pdf> (accessed November 10, 2009).

⁹ Peter R. Blood, ed., *Afghanistan: A Country Study* (Washington, DC:: U.S. Government Printing Office, 2001), <http://countrystudies.us/afghanistan/39.htm> (accessed, February 27, 2010)

¹⁰ The Musahiban dynasty included Zahir Shah, Nadir Shah, and Daoud Khan. This dynasty was one of the most stable periods in modern Afghan history, partly because the Musahibans understood the importance of local power. There had been some spectacular failures before this period of relative calm. Previously, Amanullah tried to emulate Ataurk's Turkey and Reza Shah's Iran from 1919 to 1929. His government's attempts to extend the rule from the capital resulted in rebellions. The social and political upheavals started in Khowst in 1923 and continued to Jalalabad in 1928. Amanullah abdicated in 1929 and anarchy ruled for several months. As a result, in the rural areas, especially, in the Pashtun enclaves, the central government is seen as a foreign entity. The familiar saying of "my allegiance to my family first, then to my village, sub-tribe and tribe" is rigorously applied. See Seth Jones, "Going Local: The Key to Afghanistan," *The Wall Street Journal*, August 7, 2009.

¹¹ "Those Pashtun tribes, especially those from southeastern Afghanistan and those from Waziristan in British India that made the military difference and allowed Nadir Khan to become Nadir Shah to continue the line of Barakzai kingship received special concessions afterwards. They were granted a complete exemption from taxation and conscription into the army in return for the support they provided in securing him the throne. This use of large tribal militia forces led to government concessions, as in agreeing to the execution of Habibullah Ghazi, and providing them exemptions to control from Kabul's central government that remains a factor in today's political environment in southeast Afghanistan where the government's writ is barely noticeable in the region's rural areas. This is an unintended consequence of Nadir Shah's concession to the tribes that supported him and a warning about how large, tribal based militias can get beyond central government control in countries like Afghanistan where weak national governments and powerful regional tribal structures are the norm. Nadir Shah's policy that exempted his tribal militias from some governmental controls had additional far reaching impacts on later generations, however." See Tribal Analysis Center, "Afghanistan: A History of Tribal Auxiliaries," 2009. www.tribalanalysiscenter.com/freePDF/Afghanistan%20A%20History%20of%20Utilization%20of%20Tribal%20Auxiliaries.pdf (accessed November 10, 2009).

¹² Sarah Canna, comp., *The Rich Contextual Understanding of Pakistan and Afghanistan (PAKAF)* (Boston, MA: Harvard Kennedy School, September 9, 2009), 17.

¹³ Seth Jones, *Counterinsurgency in Afghanistan* (Santa Monica, CA: RAND, 2008), 34.

¹⁴ Tonita Murray, "Police-Building in Afghanistan: A Case Study of Civil Security Reform," *International Peacekeeping*, 14, no 1 (2007), 109.

¹⁵ Jones, *Counterinsurgency in Afghanistan*, 33.

¹⁶ *United States Plan for Sustaining the Afghanistan National Security Forces*, Section 1231, Public Law 110-181, June 2008, 21 and Atmar, *Afghan National Police Strategy*, 25.

¹⁷ The MOI is in the process of reorganizing and reforming the Afghan National Police to improve police training, education and overall effectiveness. There are five categories of police: Afghan Civilian Police (ACP), Afghan Gendarmerie (ANCOP-AG), Afghan Border Police (ABP), Afghan Anti-Crime Police, (AACP) and the Afghan Public Protection Force (APPF). See *United States Plan for Sustaining the Afghanistan National Security Forces*, Section 1231, Public Law 110-181, June 2008, 22 and Atmar, *Afghan National Police Strategy*, 25.

¹⁸ Oxford Analytica, "AFGHANISTAN: Police training goals will not be met," (October 3, 2007).

¹⁹ David H. Bayley, *Changing the Guard: Developing Democratic Police Abroad* (Oxford, England: Oxford University Press, 2006), 58.

²⁰ Roger Trinquier, *Modern Warfare: A French View of Counterinsurgency* (New York: Praeger, 1964), linked from <http://carl.army.mil/resources/csi/trinquier/trinquier.asp> (accessed January 3, 2010)

²¹ Trinquier; David Galula, *Counterinsurgency Warfare: Theory and Practice* (Westport, CT: Praeger, 1964), 61.

²² "Policing is one of the most effective -- and also the most ill-used -- tools available to tackle extremism. In an insurgency police should be the eyes and ears in uncovering violent networks, spotting bombs, guarding public facilities and reporting suspicious activities. More generally -- but just as importantly -- police keep everyday public order on the streets. Reducing general criminality and providing security to the public provides the most widely shared and distributed public good. It is much more effective in winning hearts and minds than digging wells or building schools -- and indeed encourages and protects such development activities." See speech by Nick Grono, "Policing in Conflict States: Lesson from Afghanistan", to International Police Commissioners' Conference, in The Hague, June 16, 2009.

²³ The Afghan National Security Policy states that it is the task of the ANA to combat insurgencies. See Karzai, *National Security Policy*, Chapter 3, 10.

²⁴ Atmar, *Afghan National Police Strategy*, 8.

²⁵ "The Afghan Gendarme's mission is to maintain law and order utilizing proportional armed capability. It will be organized geographically into regional brigades and battalions. The Afghan Gendarmerie will be the lead police organization in counterinsurgency operations and work in close cooperation with the Afghan Border Police and Afghan National Army. Operations conducted by these units should be fully supported by military forces or conducted jointly with the military to support the 'clear' phase of counterinsurgency operations and the Afghan Gendarmerie will eventually be the primary police organization in the 'hold' phase of counterinsurgency operations and will support the Afghan Civilian Police." See Atmar, *Afghan National Police Strategy*, 27.

²⁶ Chris Sands, "Bring back Taliban to end police corruption, say Afghan truckers," *The Independent*, May 10, 2007.

²⁷ “More than 11 million Afghans over the age of 15 cannot read or write. In rural areas, where three-fourths of all Afghans live, 90 percent of the women and more than 60 percent of the men are illiterate.” See U.S. Agency for International Development, *USAID Education Afghanistan*, (U.S. Agency for International Development: Kabul, Afghanistan, November 30, 2009), linked from <http://afghanistan.usaid.gov/en/Program.23a.aspx> (accessed January 14, 2010). The UNESCO statistics put literacy at 28% overall based on year 2000 data. See United Nations, *Education in Afghanistan* (UNESCO Institute for Statistics: Montreal, Canada, 2007) linked from http://stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=eng&BR_Country=40 (accessed January 14, 2010).

²⁸ International Crisis Group, *Reforming Afghanistan’s Police, Asia Report N°138*, 30 August 2007, 6.

²⁹ Seth Jones, *In the Graveyard of Empires* (New York: W.W. Norton & Company, 2009), 115.

³⁰ Karzai, *National Security Policy*, 8; Grono.

³¹ Community Policing: “Community policing is a philosophy that promotes organizational strategies, which support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.” See U.S. Department of Justice, *Community Oriented Policing Services*, (Washington, D.C.: U.S. Department of Justice, April 2, 2009), linked from <http://www.cops.usdoj.gov/files/RIC/Publications/e030917193-CP-Defined.pdf> (accessed January 22, 2010).

³² Murray, 119.

³³ U.S. Government Accountability Office, *Afghanistan Security, U.S. Programs to Further Reform Ministry of Interior and National Police Challenged by Lack of Military Personnel and Afghan Cooperation* (Washington, DC: U.S. Government Accountability Office, March 2009), 2.

³⁴ U.S. Government Accountability Office, *Afghanistan’s Security Environment* (Washington, DC: U.S. Government Accountability Office, November 5, 2009), 5.

³⁵ International Crisis Group, 10.

³⁶ U.S. Government Accountability Office, *Afghanistan’s Security Environment*, 5.

³⁷ International Crisis Group, 1.

³⁸ Ann Marlowe, “The New Strategy for Afghanistan’s Cops,” *The Wall Street Journal*. April 25, 2008.

³⁹ U.S. Government Accountability Office, *Afghanistan’s Security Environment*, 21.

⁴⁰ “The reduction of corruption has received significant emphasis through changes in pay, personnel systems, block training of officers and reductions and reassignments of staff and is starting to show results. The MOI officer corps shrunk by almost half from 17,800 to 9,000. Pay and rank reform started in late 2005 has been important. The reduction in senior MOI officers

has streamlined the bureaucracy and reduced the opportunities for corruption. The reduction has also allowed for rigorous testing and the promotion based on merit rather than personal contacts or factional connections.” See David D McKiernan, “Winning in the Islamic Republic of Afghanistan,” *Army*, October 2008, 127; Andrew Wilder, *Cops or Robbers: The Struggle to Reform the Afghan National Police* (Kabul, Afghanistan: Afghan Research and Evaluation Unit, July 2007), viii.

⁴¹ Oxford Analytica, “AFGHANISTAN: Interior Ministry improves under Atmar,” June 2, 2009.

⁴² Atmar, *Afghan National Police Strategy*, 25.

⁴³ Bayley, 58.

⁴⁴ International Crisis Group, 1; Atmar, *Afghan National Police Strategy*, 8.

⁴⁵ Murray, 119.

⁴⁶ David Rohde, “Afghan Police Suffer Setbacks as Taliban Adapt,” *New York Times*, September 2, 2007.

⁴⁷ Wilder, 45.

⁴⁸ Atmar, *Afghan National Police Strategy*, 5.

⁴⁹ Abdul Waheed Wafa, “Taliban Seize Rural District In Southwest As Police Flee,” *New York Times*, February 20, 2007.

⁵⁰ Grono.

⁵¹ Wilder, 45.

⁵² Mark Sappenfield and Anand Gopal, “Rise in crime, kidnapping, top Afghans' worries,” *The Christian Science Monitor*, November 25, 2008, 5.

⁵³ Griffe Witte, “Taliban shadow officials offer concrete alternative,” *The Washington Post*, December 9, 2009; Sabrina Roshan, “Afghans on the Taliban,” Belfer Policy Memo (Boston, MA: Harvard University, November 2009).

⁵⁴ Ann Scott Tyson, “Dearth of Capable Afghan Forces Complicates U.S. Mission in South,” *The Washington Post*, July 25, 2009.

⁵⁵ Office of the Special Representative for Afghanistan and Pakistan, *Afghanistan and Pakistan Regional Stabilization Strategy*, (Washington, DC: U.S. Department of State, January 2010), v.

⁵⁶ United States Institute of Peace, *Establishing the Rule of Law in Afghanistan*, Special Report 117 (Washington, DC: United States Institute of Peace, March 2004), 10.

⁵⁷ International Crisis Group, 6.

⁵⁸ U.S. Department of the Army, *Counterinsurgency*, FM3-24/MCWP-3-33.5 (Washington, DC: U.S. Department of the Army, December 15, 2006), 5-19.

